IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2007

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.NO.19606 OF 2007
AND
M.P.NO.1 OF 2007

B.Sridhar .. Petitioner

Vs.

1.Director General of Police,
Chennai-600 004.
2.Inspector General of Police,
Central Zone,
Trichy.
3.Commissioner of Police,
City Police Office,
Trichy City .. Respondents

This writ petition has been preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the first respondent herein in his proceedings Rc.No.54499/NGB III(2)/2006 dated 3.5.2006 and to quash the same and consequently, direct the respondents herein to promote the petitioner as Head Constable with effect from 01.7.2001, with all consequential service and monetary benefits.

For Petitioner : Mr.G.Bala

For Respondents: Mr.S.Gopinathan, AGP

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ORDER

Invoking the writ jurisdiction of this court, the petitioner has sought for the issue of a writ of certiorarified mandamus to quash the order of the first respondent, dated 3.5.2006 and to direct the respondents to promote the petitioner as Head Constable with effect from 1.7.2001 with all consequential service and monetary benefits.

2.The affidavit filed in support of the petition is perused. The court heard the learned counsel on either side. All the materials available are looked into.

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3.The petitioner joined the police service as Grade II Police Constable in the year 1988 and he was promoted as Grade I Police Constable on 1.10.1999. The petitioner was fully eligible to be promoted as Head Constable as on 1.7.2001, but he was promoted as Head Constable only on 25.11.2002. Hence, the writ petition has been brought forth, seeking the relief that virtually, he should have been promoted as on 1.7.2001 when there arose a vacancy for the post of Head Constable.

4.After looking into the materials available, the court is of the considered opinion that it is a fit case where the relief has got to be granted. Concededly, there was a vacancy for the post of Head Constable as on 1.7.2001 in the Armed Reserve, Trichy. The petitioner was given promotion on 25.11.2002. It is not the case of either side that there was any junior, who was given promotion, but the case of the petitioner is that when there was vacancy available on 1.7.2001, it should have been filled up by giving promotion to the petitioner. The petitioner first made a representation to the Commissioner of Police, Trichy, but the same was rejected on 24.7.2002, stating that he should have completed 3 years of service as Grade I Police Constable. Then, he made an appeal before the Inspector General of Police. The Inspector General of Police has directed the Commissioner of Police to give promotion with retrospective effect, but it was not done. On the contrary, a clarification was sought for from the Director General of Police. Pending consideration, now the present communication was addressed, stating that it is not a time bound promotion and therefore, such a retrospective effect could not been given and the promotion that was given on 25.11.2002 was correct and the claim of the petitioner that he should have been promoted as on 1.7.2001 cannot be countenanced, which is challenged before this court.

5.After hearing the learned counsel and looking into the materials available, the court is of the considered opinion that the request of the petitioner has got to be granted for two reasons. Firstly, there was vacancy for the post of Head Constable in the Armed Reserve, Trichy on 1.7.2001. It is not the case of the department that he is not eligible to be promoted on any ground. He was given promotion only on 25.11.2002. The first contention put forth by the Commissioner of Police that he should have served as Grade I Police Constable for a period of three years was not found correct even by the Inspector General of Police. When a clarification was sought for, there was a reply, stating that it was not a time bound promotion. The said contention is reiterated by the learned counsel for the respondent now. The first contention seems to be contrary to the Rule 42 of the Police Standing Order. It would be apt and appropriate to reproduce the Rules 42(2) and (3), which runs as follows:

> "42.Promotion to the posts of Head Constable in the District Police and Armed Reserve.-
>
> (2)All Grade I Police Constables, in the Armed Reserve both in General line and Specialist line should be promoted as Head Constable in seniority in their

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respective lines without any test. However, a separate test shall be conducted from among Driver Head Constables for the posts of Driver Mechanics.

(3)All vacancies of more than one month in the rank of Head Constables shall be filled by promotion in seniority"

6.A reading of the Police Standing Order would clearly reveal that whenever there is promotion for the post of Head Constable, it should be filled up within a period of one month. In the instant case, there arose vacancy on 1.7.2001, but the vacancy has been filled up by promoting the petitioner on 25.11.2002. Under these circumstances, if the Police Standing Order has got to be applied, the vacancy should be filled up on or before the end of July, 2001. The court is of the considered opinion that it is a fit case where the order under challenge has got to be quashed. Accordingly, it is quashed. A direction has got to be issued to the respondents to promote the petitioner to the post of Head Constable when the vacancy becomes available, i.e. from 1.7.2001 retrospectively, applying the Police Standing Order and he is entitled for the benefits which would follow. Accordingly, a direction is issued. This writ petition is ordered. No costs. Consequently, the connected MP is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.Director General of Police,
Chennai-600 004.
2.Inspector General of Police,
Central Zone,
Trichy.
3.Commissioner of Police,
City Police Office,
Trichy City.

+1cc to M/s.S.Bala, Advocate Sr 73755
+1cc to Govt. Pleader SR 73866

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